

(1959) 01 OHC CK 0003
In the Orissa High Court
Case No : O.J.C. No. 139 of 1957

Gangadhar Das

APPELLANT

Vs

The State and Others

RESPONDENT

Date of Decision : 14-01-1959

Acts Referred:

Constitution of India, 1950 — Article 226
Orissa Grama Panchayat Rules, 1968 — Rule 85, 93

Citation : (1959) 25 CLT 167

Hon'ble Judges : Narasimham, C.J.; Das, J

Bench : Division Bench

Advocate : D.C. Sahu, for the Appellant; A.G. and R. Das, for the Respondent

Final Decision : Dismissed

Judgement

Narasimham, C.J.—This is a petition under Article 226 of the Constitution by the Secretary of Tutapeta Grama Panchayat against the decision of that Panchayat, arrived at a meeting held on 25-12-1956 terminating the Petitioner's services after giving him one month's notice.

2. The Petitioner is an under-Matric, but he was appointed temporarily as the Secretary of the aforesaid Panchayat on 19-9-1950. The resolution of the Panchayat appointing him temporarily as Secretary was passed on 13-6-1950 but as required by Rule 85 of the Orissa Grama Panchayat Rules the previous approval of the Registrar of Cooperative Societies, exercising the powers of a District Magistrate, was conveyed only on 19-9-1950. The order of appointment therefore took effect only from that date. While giving his approval (see Annexure A) the Registrar expressly stated that the Petitioner's appointment was approved as recommended by the Grama Panchayat. In the resolution the appointment was recommended as a temporary measure and hence the Registrar's order must be construed to mean that the Petitioner's appointment was approved only on a temporary basis. There is no subsequent resolution of the Grama Panchayat or of the authority confirming him in that post. While he

was thus working temporarily as Secretary of the said Grama Panchayet Government decided that the minimum educational qualification of the Secretaries of all Grama Panchayats should be the Matriculation standard and instructions were issued to all Panchayats to take steps to terminate the services of those Secretaries who did not possess this minimum qualification. In pursuance of there instructions of the Government the Totapeta Grama Panchayat, by another resolution dated 25-12-1956 terminated the services of the Petitioner after giving him one month's notice.

3. The main point urged by Mr. D.C. Sahu on behalf of the Petitioner was that the termination of the Petitioner's services amounted to "punishment" and that under Rule 93 of the Orissa Grama Panchayet Rules, regular proceedings should have been drawn up against him and he should have been given an opportunity of defending himself. The obvious answer to this contention is that the said rule would apply only if the order of discharge is passed by way of punishment. If however the order of discharge is passed, not by way of punishment, but for some other reason and after giving reasonable notice, there is no room for interfering with such an order, either on the ground of violation of the rules of natural justice or on the ground of infringement of any of the provisions of the Grama Panchayet Act or of the rules made there under. This is what has happened in this case. The Petitioner's appointment as Secretary of the Panchayet was throughout temporary and it is now well settled that such temporary appointments can always be terminated after reasonable notice. One month's notice, in the circumstances of this case, must be held to be reasonable. There is no stigma attached to the Petitioner by virtue of the order terminating his services, nor does not visit him with any evil consequences and consequently it does not amount to a "punishment" so as to attract the principles laid down by the Supreme Court in the well known *Purushottmn Lal Dhingra v. Union of India*.

4. We see therefore no justification for interfering with the order of discharge passed against the Petitioner. We find however that at the time of the admission of this writ application we stayed the operation of the Panchayet's order terminating his services and we are informed that he Petitioner has continued to serve as Secretary of the Panchayet since that date till today. He should therefore be paid his salary for working as Secretary till today, and the order terminating his services as Secretary will take effect from today.

5. The application is dismissed but there will be no order for costs.

Das, J.

6. I agree.

7. Petition dismissed.